

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

EYECARE PARTNERS, LLC,
Plaintiff,

vs.

LANCE SNARR, et al.,
Defendants.

Case No. 1:18-cv-507

Dlott, J.

Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**


Plaintiff EyeCare Partners, LLC initiated this action in July 2018 against defendants Lance Snarr, Visioncare Partners Management, Inc. d/b/a Total Eye Care Partners (“TECP”), and Timothy Leland¹ alleging that TECP engaged in unfair competition with plaintiff by using plaintiff’s confidential and proprietary information that it improperly received from plaintiff’s former employees, including defendants Snarr and Leland. (Doc. 1). Plaintiff also alleges that its confidential and proprietary information was disclosed to TECP in violation of contractual obligations and other relevant laws. (*Id.*). Defendant TECP filed an answer and counterclaim for unfair competition/unfair practices on August 24, 2018, and defendant Snarr filed an answer on August 21, 2018. (Doc. 14).

On September 14, 2018, plaintiff filed its first motion to dismiss defendant TECP’s counterclaim. (Doc. 18). Thereafter, on April 4, 2019, the Court granted plaintiff’s motion to file a first amended complaint and add Timothy Leland as a defendant. (Doc. 47). On April 18, 2019, defendant TECP filed an answer to plaintiff’s first amended complaint and an amended counterclaim for unfair competition/unfair practices. (Doc. 49). Plaintiff filed a renewed motion to dismiss defendant TECP’s counterclaim and supplemental memorandum on May 2, 2019. (Docs. 54, 55). Defendant TECP’s amended counterclaim supersedes its original counterclaim

¹ Defendant Leland was added as a party defendant on April 4, 2019. (Doc. 46)

and is the legally operative counterclaim in this matter. Accordingly, it is **RECOMMENDED** that plaintiff's first motion to dismiss defendant TECP's counterclaim (Doc. 18) be **DENIED** as **MOOT**.²

Date: 6/17/19


Karen L. Litkovitz
United States Magistrate Judge

² The Court acknowledges that plaintiff recently filed a motion for leave to file a second amended complaint and add additional claims and party defendants. (Doc. 61). This motion remains pending and is not yet ripe for the Court's review.

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Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).